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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,867	05/10/2001	Elbie D. Wallace JR.	3077	5149

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EXAMINER	
RUHL, DENNIS WILLIAM	

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/852,867	WALLACE, ELBIE D.	
	Examiner	Art Unit	
	Dennis Ruhl	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Applicant's response of 10/22/05 has been entered. The examiner will address applicant's remarks at the end of this office action.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 1, what is the scope of "who does not qualify against conventional leasing standards"? This term is considered to be vague and indefinite because it is not known what standards are considered to be conventional and which are not. This is not a definite thing. Also, the language "*wherein the potential renter does not qualify against convention leasing standards where there is no guarantor, may qualify for a lease warranted by the lease guarantor*" does not read well and does not seem to make any sense. Applicant has deleted the word "who" which seems to have been needed to make the portion of the claim make sense. The portion beginning with "may" just seems to be thrown out there and seems like a fragmented sentence. What is the language intending to recite?

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

> the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weatherly et al. (6049784) in view of ATS, Inc. web site.

For claims 1,7, Weatherly discloses a lease guarantor that will provide a lease warranty to a landlord in the event that a renter has defaulted on their rent. Column 4, lines 25-33 disclose that the renter must qualify for the lease warranty by satisfying guarantor set criteria. The criteria are used to set the level of risk that the guarantor is willing to accept with a prospective renter. Weatherly discloses that the renter is checked by doing a credit check and an employment check as claimed. Column 4, lines 66-column 5, line 9 discloses the warranty and how the payments can be structured. Not disclosed by Weatherly is that a criminal background check is performed on the prospective renter. ATS discloses a web site/company that offers landlords, realtors, property managers, etc. with a prospective tenant screening service. ATS will perform background checks that include an employment check and a credit check as Weatherly discloses, but ATS also discloses that a criminal background check is also performed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform a criminal background check on a prospective tenant to see of they are a convicted criminal and if they are what they were convicted of. A landlord would surely want to know if a convicted child sex offender was applying to rent an apartment in a building that also housed a lot of kids. A criminal background check would have been obvious to one of ordinary skill in the art as taught by ATS, which was representative of the state of the art prior to the invention of the instant application.

For claim 2, Weatherly discloses that with respect to the credit check, any indication of fraud is reason for denial. See column 4, lines 34-40. A credit check is a check for bills/debts not paid because if you do not pay a bill or debt, the failure to pay is reported to a credit agency so that in the future another lender can be made aware of the previous failure to pay a bill/debt. This satisfies the limitation of denying the renter if a past due utility bill is found. Not disclosed is that the prospective renter will not be qualified if it is found that a felony conviction exists. It would have been obvious to one of ordinary skill in the art at the time the invention was made to deny a prospective renter if it is found they are a convicted felon. This is the reason you do a criminal background check, so that you can use the information in making a decision to grant or deny a rental application. A felony conviction for child sexual assault would surely be grounds for denying rental to a convict in a housing area that housed lots of kids. This would have been obvious to one of ordinary skill in the art at the time the invention was made.

For claim 3, not disclosed is that the employment check includes portions a)-d) as claimed. Concerning checking that the renter is currently employed, has been employed for the last 8 months, and that their income is at least $15,000, these features would have been obvious to one of ordinary skill in the art at the time the invention was made. The renter must be currently employed so that you can be assured they have positive income to pay the rent. The income must also be of such a value that they can actually afford the rent. Checking that they make at least $15000 would have been obvious to one of ordinary skill in the art. The income level criteria would clearly depend

on the rent amount and one renting a place for $5000 a month needs to show an income that allows this rent to be paid and $15000 would not be enough. Concerning the past employment for 8 months, it would have been obvious to check for past continuous employment because this is an indication that the renter will most likely stay employed, has shown some amount of stability, and therefore should be able to pay the rent. With respect to the checking that the renter is at least 21 years of age this would have been obvious to one of ordinary skill in the art because one would want to ensure that the renter is of legal age to enter into a binding contract and is of a low risk. In view of this fact, the age of 21 is obvious. For many years rental car companies have had policies that prohibit a person under 25 from renting a car, due to accident statistics and liability concerns. You also must be of a legal age to enter into contracts. The recited 21 years old is obvious.

For claims 4,5, these claims are reciting the income of the prospective renter and are not further reciting anything to the method of the claim as far as steps or structure go. The salary of the renter is not part of the invention but is based on the renter themselves. A second interpretation is that any number can be adjusted by a cost of living index to arrive at $15000. Any salary value satisfies what is claimed because if adjusted by a certain number, the result will be 15000.

For claim 6, applicant has claimed that the renter will be qualified regardless of non-payment of rent or student loans or medical bills or lack of credit, or bankruptcy, or auto repossession. The specific criteria used to assess a particular prospective renter are directly related to the level of risk that the guarantor is willing to accept. Weatherly

even discloses in column 1, lines 59-end, that the renter is evaluated to "determine the acceptability of the level of financial risk associated with the potential lessee". Based on this fact, it would have been obvious to one of ordinary skill in the art that was willing to accept a high level of financial risk associated with a potential renter to approve the renter even if they have non-payment of rent or student loans or medical bills or lack of credit, or bankruptcy, or auto repossession. These features are criteria that would be of interest to one of ordinary skill in the art of leased housing and one willing to accept a high level of risk would find it obvious to qualify a renter as claimed. Setting the threshold values (qualify or not qualified) for the various criteria is a choice that would be obvious to one of ordinary skill in the art and is set according to the level of risk one is willing to accept.

For claims 8,9, see column 5, line 2, where a one-month guarantee is disclosed. One month is not more than two as claimed. The warranty is valid during a portion of the lease as claimed.

For claim 10, Weatherly discloses and recognizes that the amount of time that the warranty is valid may vary (i.e. 1 month or maybe 3 months). Not specifically disclosed is the ½ of the term of the lease limitation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the warranty be valid during the first half of the lease as this is already a variable recognized by Weatherly as being changeable to one of ordinary skill in the art. This is a choice that would depend on the level of risk involved as stated by Weatherly in column 5, lines 1-10. It also could very well be that a 6-month lease is desired by the renter and the 3-

month warranty of Weatherly would satisfy the claimed ½ of the lease limitation. This all depends on the lease period.

For claim 11, see column 4, line 28-29 where an application fee are disclosed. This is a fee for the warranty as claimed.

For claims 12-15, the claims are directed to what the fee is based on, such as a percent of annual rental, percent of annual income, according to a range of rental price or income, or that the fee is increased if bankruptcy has been filed for. Because it is disclosed that an application fee is charged to the prospective renter, the manner of arriving at what the fee will be is obvious to one of ordinary skill in the art. One of ordinary skill in the art could base the fee on anything. Concerning the increasing of the fee, the result is still a fee, which is satisfied by Weatherly. Additionally, if one had previously filed for bankruptcy, this would indicate a higher risk tenant one of ordinary skill in the art would have found it obvious to charge them a higher fee in return for a higher risk tenant.

For claims 12,13, the examiner also believes that these claims are not really defining anything further to the claimed subject matter and are anticipated in Weatherly, because when reciting that the fee is based on a percent of income or rent, what does this really mean? Because the income/rent is not known or claimed and it is not clear in what manner the fee is based on the income (higher income is higher fee or higher income is lower fee?) this limitation does not define anything further. Any value for a fee is inherently a percent of a rent or income value. A $50 application fee is 0.135 % of an income of $37,000 a year.

For claim 16, it is not disclosed that default is when the renter has an ejectment conviction. The examiner interprets this to be an eviction of the tenant. One of ordinary skill in the art would have found it obvious to consider the tenant in default only after an ejectment conviction because this is the point in time where a legal authority has decided the issue and found grounds for eviction. The tenant has then been afforded some due process rights. This is also something that one of ordinary skill in the art would find negotiable and adjustable in the contract for the lease warranty itself. One could set the contract as defining default after one rent payment is not received on time if one wanted to or one could set forth that default is after two late rent payments. This would be an obvious choice that one of ordinary skill in the art would recognize as being set as desired.

For claim 17, not disclosed is that the application is completed using an Internet web site. Weatherly discloses that the landlord submits data to the guarantor using a communication link 16 that connects computers 10 and 12. Weatherly does recognize and disclose electronic submission of data to the guarantor for purposes of performing a renter screening. ATS discloses a web site where information on prospective tenants is submitted for review. ATS teaches that applications for leases are taken by using a web site on the Internet and that this is an easy to use and efficient manner of performing the method of tenant screening. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the renter to submit an application to the guarantor by using a web site on the Internet as disclosed by ATS because it is a very easy to use and efficient manner of communication. The quote

from Richard De Boer states "I found your web site on the Web and have been using you ever since. I have been very happy ever since". Bryan Osborne is quoted as saying "The online reports save a lot of paperwork.". Sue Schlea states "ATS has a quick response time.". One of ordinary skill in the art would have found it obvious to use a web site for a renter to fill out an application for lease.

For claim 18, see column 4, lines 11-17 where it is disclosed that an advertising campaign would be undertaken to attract landlords to use the guarantor service. Not disclosed is that a database of landlords is provided as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to store landlords in a database as claimed because it is disclosed that an advertising campaign is used to attract landlords to the service. One of ordinary skill in the art would find it obvious to have some database files pertaining to the customers of the service such as landlords that you targeted with the advertising campaign. One would assume that some customers would be repeat customers and storing information about your customers in a database is clearly within the understanding and motivation of one of ordinary skill in the art.

For claim 19, Weatherly discloses that the landlord is notified of a denial of a tenant. See column 4, lines 34-65. Also disclosed in Weatherly is that a communication link 16 is used to connect landlord computer 10 to guarantor computer 12 for purposes of data submission concerning the prospective renter. In view of this, one of ordinary skill in the art at the time the invention was made would have found it obvious to notify the landlord via the Internet (such as by email) of a renter being

qualified because the Internet is a very well known communication link for computers around the world. Weatherly teaches electronic communication between computers via a communication link and from this teaching the use of the Internet (email) is considered a very obvious choice to one of ordinary skill in the art. Additionally, and as an additional interpretation, ATS discloses the use of the Internet for notifying the landlord of the results of a tenant check. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Internet in Weatherly to notify the landlord of a tenant being qualified as disclosed by ATS.

For claim 20, Weatherly discloses that a computer is used to make the process automated as far as data receipt from landlords to monitoring the payments of rent with computers. The 103 rejection provides for all of the recited checks being performed. Not disclosed is that the results are used by a computer program to determine if the renter qualifies or not. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a computer to compare the results of the background checks and other tenant data with criteria thresholds to determine automatically whether or not a potential renter qualifies. Instead of having a person review all of the applications to determine if somebody qualifies or not a computer program would be used to do the comparison automatically. This is just the automation of a manual actively widely recognized by the prior art (In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958)). With respect to the outputting of a fee agreement, this is taken as the guarantor contract itself either in electronic or hard copy form. If the renter qualifies and you are entering into a contract with the renter, printing a hard copy

to be signed or an electronic copy is considered obvious. The outputting of the list of landlords who will accept the renter are present in Weatherly because when you print the contract itself it will include the name of the landlord that is willing to and is accepting the renter. The name of the landlord is a list as claimed.

5. Applicant's arguments filed 10/22/05 have been fully considered but they are not persuasive.

With respect to the 112,2nd paragraph rejection and the term "convention leasing standards", applicant has not provided a traversal of this language and the claim has not been changed so the rejection is maintained.

Concerning the prior art rejection, applicant has argued that Weatherly does not disclose a lease guarantor. Applicant is referred to column 2, lines 11-14 where a the least guarantor is disclosed. The examiner does not see how applicant can argue there is no lease guarantor when the lease control intermediary of Weatherly is providing a rent guarantee to the landlord against default by the tenant. That is what a least guarantor is by definition. Both a least guarantor and a lease warranty are in Weatherly contrary to what has been argued. The argument is non-persuasive.

With respect to claim 20, the examiner notes that applicant has stated that claim 20 is "*merely a method of automating claims 11,9,7,6,5,3,2, which depend on independent claim 1*". The presented argument is the same as for claim 1, and is found non-persuasive for the same reasons as set forth above. With respect to the automation aspect, this is the issue that the examiner has stated was obvious in the 103

rejection. Based on applicant's comments it appears that applicant agrees that claim 20 is merely automating a manual process, where the process is known in the art as evidenced by the prior art rejection.

The examiner notes that the dependent claims 2-19 have not been specifically argued as the patentability has been based on claim 1. A lack of a traversal for these claims is taken as applicant's acquiescence as to the merits of the rejection. Applicant is reminded of 37 CFR 1.111.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DENNIS RUHL
PRIMARY EXAMINER